

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

## **I. DISPUTE**

1. a. Whether there should be additional reimbursement for dates of service 09/25/01 through 11/07/01.
- b. The request was received on 06/04/02.

## **II. EXHIBITS**

1. Requestor, Exhibit I:
  - a. TWCC 60 and Letter Requesting Dispute Resolution
  - b. HCFAs-1500
  - c. TWCC 62 forms
  - d. Medical Records
  - e. Example EOBs from other Carriers
  - f. Requestor study survey indicating previous Carriers' reimbursement for CPT Code 97799-CP-AP.
  - g. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
  - a. TWCC 60 and Response to Request for Medical Dispute Resolution
  - b. HCFAs-1500
  - c. TWCC 62 forms
  - d. Bill Level Notes
  - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 07/19/01. Per Rule 133.307 (g) (4), the carrier representative signed for the copy on 07/23/02. The response from the insurance carrier was received in the Division on 07/30/02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of A letter Requesting Additional Information is reflected as Exhibit III of the Commission's case file.

### III. PARTIES' POSITIONS

1. Requestor: Letter dated 07/16/01  
“(Provider’s) position is that the fees paid for these services by the carrier were not ‘fair and reasonable.’ Evidence supporting our position is offered in the following 4 points:  
1. Examples of what other insurance companies reimbursed (Provider) for CPT 97799-CPAP during the service dates. Attachment #1 contains some examples of claims paid at our billed rate by other insurance companies during the same period of time...2.... The fee guidelines state that fees charged for participation in a chronic pain management program are to be ‘bundled’, as opposed to billing for the various components of an employee’s treatment.... (Provider) ...are sending Attachment #2....” 3. (Provider) is also enclosing a study it conducted in 2001. The study surveyed what insurance companies were paying for CPT 97799-CPAP (see attachment #3).... We believe this evidence supports our premise that the fees paid by the carrier are not ‘fair and reasonable.’”
2. Respondent: Letter dated 05/21/02.  
“X\_\_ Maximum Fee Schedule rate has been paid for these services.  
Other: ALL CLAIMS PAID TOO [sic] THE MAXIMUM FROM THE USUAL AND CUSTOMARY SCHEDULE PER STATE GUIDELINES.”

### IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only dates of service eligible for review are those commencing on 09/25/02 and extending through 11/07/01.
2. Per the provider’s TWCC-60, the amount billed is \$41, 300.00; the amount paid is \$23,600.00; the amount in dispute is \$17,700.00.
3. The Carrier’s EOBs deny additional reimbursement as;  
“**FEES F – THE PROCEDURE CODE IS REIMBURSED BASED ON THE MEDICAL FEE SCHEDULE. IF ONE IS NOT MANDATED. THE UCR ALLOWANCE IS REIMBURSED FOR THE ZIP CODE AREA.**”;  
“**DOP – M – REIMBURSED PER THE INSURANCE CARRIER/S FAIR AND REASONABLE ALLOWANCE.**”;  
“**RSUB – S – BASED ON ADDITIONAL INFORMATION RECEIVED FOR THE SERVICE/PROCEDURE. AN ADJUSTMENT HAS BEEN MADE TO THE TOTAL REIMBURSEMENT OF THE ORIGINAL INVOICE.**”
4. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT or Revenue CODE	BILLED	PAID	EOB	MARS	REFERENCE	RATIONALE:
09/25/01	97799-CP-AP for all dates of service	\$1,400.00	\$800.00	F	No	MFG: Medicine Ground Rules (II) (G); TWCC Rule 133.307 (g) (3) (E); 133.307 (g) (3) (D); 133.307 (j) (2); CPT Descriptor	<p>“ Documentation of Procedure (DOP) in the maximum allowable reimbursement (MAR) column indicates that the value of the service shall be determined by written documentation attached to or included in the bill. DOP is used when the services provided are not specifically listed or are unusual or too variable to have an assigned MAR.”</p> <p>The carrier reimbursed the provider at \$100.00 per hr. for Chronic Pain Management. The Provider billed \$175.00 per hr. CPT Code 97799-CP-AP is to be reimbursed at fair and reasonable. The provider is scarf accredited.</p> <p>Pursuant to Rule 133.307 (g) (3) (D), the requestor must provide “...documentation that discusses, demonstrates and justifies the payment amount being sought is a fair and reasonable rate of reimbursement....”. The Provider submitted three example EOBs that indicate the amount billed was reimbursed by other insurance carriers. However, the example EOBs and/or HCFAs submitted were not fully redacted. The patient names were legible to the reviewer and, therefore, unable to be utilized for review. TWCC Rule 133.307 (g) (3) (E) states, “Prior to submission, any documentation that contains confidential information regarding a person other than the injured employee for that claim or a party in the dispute, must be redacted by the party submitting the documentation, to protect the confidential information and the privacy of the individual. Unredacted information or evidence shall not be considered in resolving the medical fee dispute.”</p> <p>In accordance with TWCC Rule 133.307 (j) (2), the carrier shall address only those denial reasons presented to the provider prior to the date of the submission of the provider’s initial request for medical dispute resolution. Any new denials defenses raised shall not be considered in the review. The carrier discussed the issue of pre-authorization after the dispute was submitted.</p> <p>Therefore <b>no</b> additional reimbursement is recommended.</p>
09/26/01		\$1,400.00	\$800.00	F	MAR		
09/27/01		\$1,400.00	\$800.00	F	DOP		
09/28/01		\$1,400.00	\$800.00	F			
10/01/01		\$1,225.00	\$700.00	F			
10/02/01		\$1,400.00	\$800.00	F			
10/03/01		\$1,225.00	\$700.00	F			
10/04/01		\$1,400.00	\$800.00	F			
10/05/01		\$1,400.00	\$800.00	F			
10/08/01		\$1,400.00	\$800.00	F			
10/09/01		\$1,400.00	\$800.00	F			
10/10/01		\$1,400.00	\$800.00	F			
10/11/01		\$1,400.00	\$800.00	F			
10/12/01		\$1,400.00	\$800.00	F			
10/15/01		\$1,400.00	\$800.00	DOP			
10/16/01		\$1,400.00	\$800.00	DOP			
10/17/01		\$1,400.00	\$800.00	DOP			
10/18/01		\$1,050.00	\$600.00	DOP			
10/19/01		\$1,400.00	\$800.00	DOP			
10/22/01		\$1,400.00	\$800.00	DOP			
10/25/01		\$1,400.00	\$800.00	DOP			
10/26/01		\$1,400.00	\$800.00	DOP			
10/29/01		\$1,400.00	\$800.00	DOP			
10/30/01		\$1,400.00	\$800.00	DOP			
10/31/01		\$1,400.00	\$800.00	DOP			
11/01/01		\$1,400.00	\$800.00	DOP			
11/02/01		\$1,400.00	\$800.00	DOP			
11/05/01		\$1,400.00	\$800.00	RSUB			
11/06/01		\$1,400.00	\$800.00	RSUB			
11/07/01		\$1,400.00	\$800.00	RSUB			
<b>Totals</b>		\$41,300.00	\$23,600.00				The Requestor <b>is not</b> entitled to additional reimbursement.

The above Findings and Decision are hereby issued this 5<sup>th</sup> day of March 2003.

Donna M. Myers  
Medical Dispute Resolution Officer  
Medical Review Division

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